

1) Legal powers relevant to enforcement of the policy

The **Highways Act 1980 (section132)** enables an officer to remove (without notice) any sign which has, without the consent of the authority, been affixed upon the surface of the highway or upon any tree, structure or works on or in the highway. We would require the owner of the sign to remove it in the first instance.

The **Highways Act 1980 (section149)** provides powers to remove items deposited on the highway where they are a nuisance. In highway terms nuisance is the determination of whether there is an unreasonable interference with the rights of the public to pass and re-pass along and to have access to the highway.

This section enables us by way of notice to require the immediate removal of the sign. Should the terms of the notice not be complied with, a complaint may be made to a Magistrates' Court for a 'removal and disposal order' under this section.

If, however there are reasonable grounds for considering:-

- (a) that anything unlawfully deposited on the highway constitutes a danger (including a danger caused by obstructing the view) to users of the highway, **and**
- (b) that the thing in question ought to be removed without the delay involved in giving notice or obtaining a removal and disposal order from a Magistrates' Court under this section, the item may be removed forthwith.

If a board has to be removed without the service of a notice due to danger posed, we may either—

- (a) recover from the person by whom it was deposited on the highway, or from any person claiming to be entitled to it, any expenses reasonably incurred by the authority in removing it, or
- (b) make a complaint to a Magistrates' Court for a disposal order under this section.

In the event an item is removed under this provision and the Council is challenged it will require evidence countering any claim that the item did not constitute a danger and ought not to have been removed forthwith. This will necessitate evidence from a delegated officer who can provide expert opinion on the highways issues.

The **Highways Act 1980 (section137)** details the penalty for wilful obstruction. This might be used when, for example, 'A' Boards are placed on narrow footpaths etc. It is a prosecutable offence, so there is no recourse to issuing a notice and no Fixed Penalty Notice option. The maximum fine on conviction is £1000. The court may also order the removal of the item.

2) Enforcement Approach

All enforcement actions will comply with our published enforcement policy. The approach the authority intends to take is set out below

In the event of non-compliance the following options will be considered:

- 1) giving verbal advice on the law and the means to ensure compliance
- 2) consideration of reasonable timescales to achieve compliance
- 3) service of warning letter advising what actions are required by the recipient

Where this does not result in compliance a decision will be taken as to the appropriate action.

In certain instances the A board may be seized and removed. On such occasions, where a contravention justifies such action, some of the factors to be considered in coming to a decision may include:

- whether the A board presents an immediate hazard or danger to the public.
- the past history of the offender
- the confidence of officers that the offender will remedy the non-compliance

Any A Boards removed by the Council will be stored in a secure compound and can be retrieved for a period of up to 12 weeks following the payment of £50, which covers the Council's costs in removing and storing the item.